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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AMBER KRISTI MARSH and **STACIE
EVANS**, individually and on behalf of a class
of similarly situated persons,

Plaintiffs,

v.

ZAAZOOM SOLUTIONS, LLC, *et al.*,

Defendants.

CLASS ACTION

Case No. 3:11-cv-05226-WHO

**ORDER PRELIMINARILY
APPROVING CLASS ACTION
SETTLEMENT WITH DEFENDANTS
FIRST NATIONAL BANK OF
CENTRAL TEXAS AND JACK
HENRY & ASSOCIATES, INC.**

1 On February 7, the Court certified the following class as to Defendants First National Bank
2 of Central Texas (“FNBCT”) and Jack Henry & Associates, Inc (“Jack Henry”):

3 All residents of California from whom Membership Fees were collected (or who
4 incurred Bank Account Fees in connection with a collection or attempted
5 collection of Membership Fees) by way of remotely created check(s) drafted by
6 Defendant Jack Henry & Associates, Inc. and deposited with First National Bank
7 of Central Texas, from May 6, 2007 to the date of the preliminary approval order
8 (the “Class”). [D.E. No. 265.]

9 On September 10, 2014, the Court held a hearing on Plaintiff Amber Kristi Marsh’s
10 unopposed motion for preliminary approval of a class action settlement with respect to the Class
11 and as to Defendants FNBCT and Jack Henry only. Having considered the motion and the
12 Parties’ proposed settlement, the Court grants Plaintiff’s motion as follows:

13 1. The Court has reviewed the terms of the Parties’ Settlement Agreement
14 (“Agreement”), submitted as Exhibit 1 to the Rosenfeld Declaration [D.E. No. 298], and
15 preliminarily finds that the Agreement appears sufficiently fair, reasonable, and adequate to
16 warrant dissemination of class notice of the proposed settlement and to schedule a formal fairness
17 hearing. The Court finds that the Agreement contains no obvious deficiencies and that the Parties
18 entered into the settlement in good faith, following arm’s length negotiations between their
19 respective counsel. The Court adopts the definitions set forth in the Agreement and all defined
20 words or phrases used in this Order shall have the same meaning as in the Agreement.

21 2. Pursuant to Rule 23(c)(2)(B) and Rule 23(e) of the Federal Rules of Civil
22 Procedure, the Court orders that the Class be given notice of the pendency of this action and the
23 Parties’ proposed settlement. The Court finds that the Class Notice dissemination procedure set
24 forth in Paragraphs 46-48 of the Settlement Agreement: (i) is the best practicable notice; (ii) is
25 reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the
26 Action and of their right to object or to exclude themselves from the proposed settlement; (iii) is
27 reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive
28 notice; and (iv) meets all applicable requirements as set forth by law. Accordingly, the Court

1 adopts and incorporates the Class Notice dissemination procedures set forth in Paragraphs 46-48
2 of the Agreement into this Order.

3 3. The Court approves the Class Notice and the Postcard Notice attached as Exhibits
4 A-B to the Agreement. The Court also approves the creation of a Settlement Website by the
5 Settlement Administrator.

6 4. The Court appoints KCC Class Action Services, LLC ("KCC"), as Settlement
7 Administrator to disseminate notice to the Class and administer the settlement. The Court orders
8 KCC to: (i) complete dissemination of notice to the Class by twenty-five (25) business days after
9 entry of this order in accordance with Paragraphs 46-48 of the Agreement; (ii) file proof of the
10 dissemination of notice to the Class at or before the Final Approval Hearing; (iii) establish a post
11 office box in KCC's name to be used for receiving requests for exclusion, objections, notices of
12 intention to appear, and any other communications; (iv) promptly furnish Class Counsel, Defense
13 Counsel, FNBCT, and Jack Henry with copies of any and all written requests for exclusion,
14 notices of intention to appear, or other communications from Class Members; and (v) provide the
15 Opt-Out List to Class Counsel and Defense Counsel no later than seven (7) business days after the
16 close of the 45-day opt-out period and file a declaration attesting to the completeness and accuracy
17 thereof no later than three (3) business days thereafter or on such other date as the Parties may
18 direct.

19 5. The Court sets a Final Approval Hearing on **December 17, 2014, at 2 p.m.** to
20 consider the fairness, reasonableness, and adequacy of the proposed settlement and Agreement
21 and determine whether it should finally be approved by the Court. At that time, the Court will
22 hear any applications for an Attorneys' Fee Award, expenses, and/or Plaintiff's Service Award.

23 6. The Court sets **November 10, 2014**, as the deadline for filing the final approval
24 motion and the application for the Attorneys' Fee Award.

25 7. The Court sets **December 3, 2014**, as the deadline for filing any reply
26 memorandum in further support of final approval of the proposed settlement or the Attorneys' Fee
27 Award application.

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1 8. The Court orders that any Class Member who wishes to exclude himself or herself
2 from the Settlement Class must submit a written request for exclusion to the Settlement
3 Administrator via first class United States mail postmarked no later than **November 24, 2014**.
4 Any Class Member who does not submit a timely written request for exclusion from the
5 Settlement Class will be bound by all proceedings, orders, and judgments in the Action, even if
6 such Class Member has previously initiated or subsequently initiates individual litigation or other
7 proceedings encompassed by the Release.

8 9. The Court orders that any Class Member who does not exclude himself or herself
9 from the Settlement Class and who wishes to object to the fairness, reasonableness, or adequacy of
10 the Agreement, the proposed settlement, or to the Attorneys' Fee Award should submit his or her
11 objections to the Court at the address listed on the Class Notice, via first class United States mail
12 postmarked no later than **November 24, 2014**, or by hand no later than the same date. The
13 objection should be in writing, signed by the Settlement Class Member, and should contain all of
14 the following information: (i) the objector's full name, address, and telephone number; (ii) the
15 Membership Program(s) in which the objector was enrolled and for which deductions were taken
16 from the objector's bank account; (iii) a written statement of all grounds for the objections
17 accompanied, if possible, by any legal support for such objections; (iv) copies of any papers,
18 briefs, or other documents upon which the objection is based; (v) whether the objector intends to
19 appear at the Final Approval Hearing; and (vi) if the objector intends to appear at the Final
20 Approval Hearing through counsel, the identity of the attorney(s) representing the objector who
21 will appear at the Final Approval Hearing. Any attorney hired by a Settlement Class Member for
22 the purpose of objecting to the Agreement, the proposed settlement, or to the Attorneys' Fee
23 Award shall be at the Settlement Class Member's own expense. Any Settlement Class Member
24 who does not file a timely written objection in accordance with the procedures stated herein shall
25 be foreclosed from seeking any adjudication or review of this settlement by appeal or otherwise.
26 The parties shall not have the right to depose any objector.

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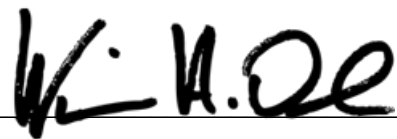
1 10. Any Settlement Class Member who timely files a written objection but whose
2 objection is overruled by the Court will remain a member of the Settlement Class and receive the
3 Cash Payment set forth in the Settlement Agreement.

4 11. The Court preliminarily enjoins all Class Members unless and until they have
5 timely excluded themselves from the Settlement Class (i) from filing, commencing, prosecuting,
6 intervening in or participating as a plaintiff, claimant or class member in any other lawsuit or
7 administrative, regulatory, arbitration or other proceeding against FNBCT or Jack Henry in any
8 jurisdiction based on, relating to, or arising out of the claims and causes of action or the facts and
9 circumstances giving rise to the Action or the Released Claims; (ii) from filing, commencing, or
10 prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding against
11 FNBCT or Jack Henry as a class action on behalf of any Class Members who have not timely
12 excluded themselves (including by seeking to amend a pending complaint to include class
13 allegations or seeking class certification in a pending action), based on, relating to or arising out of
14 the claims and causes of action or the facts and circumstances giving rise to the Action or the
15 Released Claims.

16 As set forth above, the Court preliminarily approves the Parties' class action settlement
17 and Agreement.

18
19 **IT IS SO ORDERED.**

20
21 **DATED:** September 11, 2014



The Honorable William H. Orrick
United States District Judge